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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 551st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 24 March 1992, at 10 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

Participation of non-member States

General exchange of views

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GE.92-60815/9217a

The meeting was called to order at 10.35 a.m.

PARTICIPATION OF NON-MEMBER STATES

1. The CHAIRMAN said that he had received a communication from Spain requesting participation in the meetings of the Subcommittee. Inasmuch as the granting of observer status was a prerogative of the parent Committee, the Subcommittee did not need to take any formal decision on the matter. He suggested that, in accordance with the practice of past years, the representatives of Spain might attend formal meetings of the Subcommittee and direct to the Chair a request for the floor if they wished to make a statement.

2. It was so decided.

GENERAL EXCHANGE OF VIEWS

3. Mr. HE Qizhi (China) said that the development of space law within the United Nations system was an important and inseparable part of progress in space science and technology. The recent profound changes in the international scene, which had reduced levels of military confrontation, provided an excellent opportunity to prevent the stationing of weapons, especially nuclear weapons, in space and accelerate the law-making process so as to promote the peaceful uses of outer space for the benefit of mankind, as well as international peace and security. As a country involved in the exploration of space, China would continue to play an active part in the making of space law.

4. 1992 was International Space Year, whose theme was "Planet Earth". Since the Earth's environment had suffered greatly from man's activities, it had become essential to monitor and protect that environment and exploit the planet's resources rationally. China was playing an active part in the Year, including sponsoring a number of symposia. The activities of the Year were bound to promote the further development of international legislation on space.

5. The use of nuclear power sources in outer space offered a number of advantages. However, the first consideration in any use of that sophisticated technology would have to be the safety of the global environment and the security of mankind, since all countries could be affected by an accident. The Convention on Early Notification of a Nuclear Accident, the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency and, once adopted, the Principles Relevant to the Use of Nuclear Power Sources in Outer Space would be of considerable benefit for that purpose. Consensus had been reached on 8 out of the 11 draft Principles; it was to be hoped that the Subcommittee would make every effort to achieve agreement on the remaining three during International Space Year.

6. Great differences of opinion still remained on the definition and delimitation of outer space, an issue with complex political, technical, security and other elements. Moreover, much remained unknown about the upper atmosphere and it needed further exploration and study. China therefore agreed that the legal issues relating to aero-space flight should be considered beforehand, since that might help clarify the problem.

7. The relevant United Nations resolutions gave the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee a mandate to consider principles relating to the utilization of the geostationary orbit. China considered the functions of the Committee and the International Telecommunication Union on the subject to be complementary, with the former focusing on the development of legal principles and the latter dealing with technical specifications and arrangements. Because the geostationary orbit was a limited natural resource, it was essential to establish a legal framework for its use and to improve present practice.

8. In the context of the principle of common benefit, China welcomed the working paper on "Principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes" (A/AC.105/C.2/L.182) prepared by a number of countries belonging to the Group of 77 at the end of the Subcommittee's last session and would participate actively in its consideration.

9. Mr. HAMBALI (Indonesia) said that the dramatic change in world patterns that formed the backdrop to the present session offered new opportunities to promote cooperation among States. The present session was also important in that it was taking place in International Space Year. Activities related to the Year were under way in many countries, irrespective of whether they had advanced, modest or no meaningful capabilities in space, and they reflected the hope, especially in developing countries, that the science and technology of space could benefit and improve the quality of life of peoples engaged in national development.

10. That hope was in line with the principles enshrined in the Outer Space Treaty, which would remain a dead letter unless such aspirations were achieved and consideration was given to the need for access to the knowledge and applications of space exploration and use, for the transfer of technology and for an international guarantee that the utilization of outer space or any part of it, as a limited natural resource, would be carried out in a rational and equitable manner and in such a way as to preserve it for future generations. That would help to narrow the gap between developed and developing countries in the space domain and guarantee not only the de jure, but also the de facto, application of the principle of equality in space activities.

11. Success in developing a legal framework for space ventures along those lines would provide laws that could act as tools for social engineering at the international level. His delegation reaffirmed its commitment to the Subcommittee's common endeavour to establish such a legal framework speedily and in a spirit of mutual understanding and cooperation.

The meeting rose at 10.55 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 552nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 25 March 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

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General exchange of views (continued)

Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries (continued)

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GE.92-60880/3477H

The meeting was called to order at 10.40 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. ZAWELS (Argentina) said that, while recent changes in international relations had had a positive impact on the Subcommittee's work, there was still a great deal to be done. His delegation supported the view that it was important to establish an international legal system to govern space activities, taking into account the interests of all States and, in particular, those of developing countries.

2. Referring to agenda item 3 on the elaboration of draft principles relevant to the use of nuclear power sources in outer space, an imaginative proposal had been submitted at the Scientific and Technical Subcommittee's last session in order to speed up the negotiations on those principles. In his delegation's view, progress on the two remaining principles could be made on the basis of that proposal.

3. At the Subcommittee's last session, progress had also been made in the discussions of the question of the geostationary orbit as a result of a proposal by some member countries of the Group of 77 (A/AC.105/484, annex II, para. 12) which should make it possible to overcome serious differences of opinion and draft a legal regime to govern that important natural resource. In that connection, his delegation had drawn attention to the need to clear the geostationary orbit of non-functional objects.

4. With regard to the definition and delimitation of outer space, a number of delegations had put forward interesting ideas and he hoped that they might be discussed as soon as possible.

5. He had taken note with satisfaction of the discussions at the current session of agenda item 5 and urged that the working paper contained in document A/AC.105/C.2/L.182 should be given serious consideration with a view to the incorporation of different ideas on that important question.

6. Mr. MENDEZ (Venezuela) said that the Subcommittee's work was being carried out in a favourable international environment, in a new era of cooperation and respect for the principles embodied in the United Nations Charter. The elimination of threats in the current post-cold-war period called for strategies based on international cooperation to solve problems resulting from the super-Power rivalry and the militarization of outer space.

7. His delegation was concerned about the threats to which the militarization of outer space would give rise and about the spread of the arms race to outer space. The Committee on the Peaceful Uses of Outer Space and its two Subcommittees had a constructive role to play in that regard and could provide support for the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space of the Conference on Disarmament. He agreed with the suggestion made by the delegation of Mexico at the 550th meeting that machinery should be established for cooperation between those bodies.

8. With regard to agenda item 4, the delimitation of airspace and outer space would supplement the existing legal regime by making it less ambivalent in nature. The outer space approach was a good basis for dealing with that question, since there were no agreed scientific criteria for determining the altitude at which airspace ended and outer space commenced. The matter should be settled by means of a multilateral agreement.

9. His country was of the opinion that the geostationary orbit was a limited natural resource which should be the subject of a legal regime in order to guarantee its more rational and equitable use for the benefit of the entire international community. In that connection, his delegation considered that the functions of the Committee on the Peaceful Uses of Outer Space and of the International Telecommunication Union were not exclusive, but complementary.

10. As to agenda item 3, his delegation hoped that the Working Group would reach a final agreement on the draft principles relevant to the use of nuclear power sources so that the Subcommittee could undertake some new tasks.

11. Document A/AC.105/C.2/L.182 would make a positive contribution to the Subcommittee's work on agenda item 5, since it was based on the premise that international cooperation must be universal.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (agenda item 5) (A/AC.105/484, A/AC.105/C.2/L.182, A/46/20, A/AC.105/C.2/15 and Add.1-13; A/AC.105/C.2/16 and Add.1-10; A/AC.105/C.2/L.187) (continued)

12. Mr. HANDRIYO (Indonesia) said that the consideration of the legal aspects related to access to outer space for the benefit and in the interests of all States, taking into particular account the needs of developing countries, was extremely important in order to establish a framework for cooperation between States which had space capabilities and developing countries, which were less able to compete in space technology. His own country had had some experience of how space technology could contribute to efforts by the Government to improve the welfare of its people; in cooperation with one of the space Powers, it was currently establishing its own domestic satellite communication system. It also needed more extensive technological knowledge, such as remote sensing for weather prediction and agricultural and natural resources management.

13. He agreed with other representatives, especially those of developing countries, that existing legal instruments, including the 1967 Outer Space Treaty, did not yet provide the developing countries with any guarantee of the benefits of the utilization of outer space. A legal principle to that effect had to be formulated as an indispensable addition to existing legal instruments. Document A/AC.105/C.2/L.182 reflected the needs of developing countries and could serve as a sound basis for the Subcommittee's discussion of that issue at the current session. His delegation would support the Subcommittee's efforts to reach a consensus on the matter.

14. Ms. GARCIA (Mexico) said that agenda item 5 gave the members of the Subcommittee an opportunity to promote international cooperation and the progressive development of international space law. When the Working Group on that agenda item had been set up, her delegation had said that it should focus on the elaboration of a legal framework which would guarantee all States, particularly the developing countries, access to space science and technology and their applications so that they might develop their own capabilities in that area.

15. On the basis of document A/AC.105/C.2/L.182, the Subcommittee had started to consider agenda item 5 in depth, but the active participation of all delegations was needed in order to seek areas of agreement on the elaboration of a legal framework for the promotion of international cooperation in the use of outer space exclusively for peaceful purposes.

16. She commended the Chairman of the Working Group on agenda item 5 for the paper contained in document A/AC.105/C.2/L.187, which summarized the opinions and information contained in the replies of member States to the notes verbales addressed to them by the United Nations Secretary-General, and agreed with the view expressed in paragraph 10 of that paper. Her delegation was encouraged by the progress made in the discussion of that item at the Working Group's first two meetings at the current session and considered that document A/AC.105/C.2/L.182 would serve as a useful basis for the consideration of a matter of particular importance to the developing countries. It hoped that discussions in the Working Group would continue in the same constructive spirit so that an agreement might be reached on the principles relating to international cooperation in the exploration and use of outer space for peaceful purposes.

17. Mr. MALPEDE (Argentina) said that, in view of the changes taking place in international relations and the basis they would provide for the analysis and consideration of the topic of cooperation in the exploration and use of outer space for peaceful purposes, the Subcommittee now had an excellent opportunity to make substantial progress on agenda item 5. The progress made since 1988 had been the result of the fuller information made available on the views of States, national legislation and accessions to instruments relating to international space law. In that connection, bilateral cooperation had been and was particularly important, as his own country's experience had shown. It would therefore seek to establish and strengthen relations with countries that were more advanced, and with countries that were less or equally developed, in space matters.

18. The paper submitted by the Chairman of the Working Group on agenda item 5 (A/AC.105/C.2/L.187) contained a number of positive conclusions which could enrich the Subcommittee's discussion, whose aim should be to give the greatest possible legal content to cooperation, the basic principle of space law and of international law in general. One of the conclusions to be drawn from that paper was that multilateral rules were needed to enhance the effectiveness of bilateral cooperation agreements, thereby contributing to the progressive development of the basic principles embodied in the United Nations Charter.

19. The working paper contained in document A/AC.105/C.2/L.182 would serve as an excellent basis for more in-depth consideration of the legal aspects of the implementation of the principle of international cooperation. In keeping with the general principle embodied in article X of the Outer Space Treaty, it referred to access to the space technology market on an equitable and non-discriminatory basis, equity being taken to mean the granting of certain advantages to countries which were in a less favourable situation as far as outer space development was concerned. Indeed, the title of agenda item 5 indicated the need for unequal treatment for States in unequal situations or, in other words, for treatment in accordance with the developing countries' needs.

20. The Subcommittee's task was to promote the establishment of a legal system which would provide for and regulate "cooperative complementarity" between developing countries and countries with space capabilities. In practice, scientific and technological exchanges could take place in both directions, for the mutual benefit of countries. Developing countries would have access to the space technology market, without any arbitrary or restrictive criteria and on a footing of equality, and the principle of fair economic compensation, through transactions freely agreed between the parties, would also be established. The Subcommittee should therefore place particular emphasis on equitable relations between the producers and providers of goods and services and the recipients of such goods and services. International cooperation in space activities would thus have a new and useful international instrument that would make it possible to benefit more fully from the achievements of space science and technology.

The meeting rose at 11.10 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 553rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 26 March 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

General exchange of views (continued)

Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all, taking into particular account the needs of developing countries (continued)

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GE.92-60906/4358B

The meeting was called to order at 10.40 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. FUJITA (Brazil) welcomed the very positive and constructive reactions to the working paper contained in document A/AC.105/C.2/L.182, which had been submitted as a starting point and basis for discussion and was open for contributions from other interested sponsors. The discussions had already demonstrated that some conceptual clarifications might be necessary and that there was room for improvements and refinements in the text, which could be made by means of a thorough dialogue. In that connection, his delegation fully endorsed the comments made by the representatives of Austria and the United States that, in the drafting of legal or quasi-legal principles, the careful clarification of terms was essential.

2. The main objective of the working paper was to stimulate and enhance voluntary cooperation in space science and its applications. Brazil fully shared the view that any attempt to impose legal or quasi-legal links that might weaken national sovereignty in freely determining a country's interests in bilateral or multilateral cooperation was a meaningless exercise. Respect for national sovereignty and the sovereign equality of all States were fundamental tenets of international relations and international law enshrined in the United Nations Charter. The sponsors of the working paper were thus aiming at a set of principles that would guide States once they had exercised their sovereign prerogative of entering into an international cooperation exercise. The principles should not be seen as mandatory preconditions and both the developed and the developing countries should avoid making their partnership, whether in outer space or on Earth, subject to inappropriate conditions.

3. In drawing up the principles, the sponsors had sought to achieve transparency; predictability, in the sense of receiving or offering timely cooperation; equity, by giving due consideration to factors such as different levels of development, degrees of investment and proprietary rights; non-discrimination in the sharing of benefits and knowledge; and mutual benefits and commitments. The set of principles should not be seen as unidirectional or in terms of a supplier/recipient relationship. Rather, international cooperation in outer space activities entailed a series of commitments both by the supplier and by the recipient. Principles III, IV and V were intended to deal with that aspect.

4. With regard to paragraphs 21 to 23 of General Assembly resolution 45/72, his delegation agreed that the question of space debris was an appropriate subject for discussion by the Committee on the Peaceful Uses of Outer Space. It was also committed to achieving a successful conclusion of the work on nuclear power sources. The international community was in urgent need of a clear set of principles that would ensure suitable protection for the Earth's population and environment against the hazards of accidents involving nuclear power sources. It was nevertheless regrettable that the question of "previous notification" and "prior safety assessment" still had not been dealt with in an appropriate manner. In that connection, his delegation's preference was for the retention of principle 2, as contained in

documents A/AC.105/C.2/L.154/Rev.6 and Rev.7. The merger of principles 2 and 4 under the heading "Safety assessment" in a new principle 4, as proposed in document A/AC.105/C.2/L.154/Rev.10, did not make for greater clarity, at least as the proposal was now worded. Although "previous notification" and "prior assessment" were interrelated concepts, they were different in nature and the draft text should incorporate all elements of both concepts, whether they were stated as separate principles or as a single topic. It was to be hoped that the Legal Subcommittee would be able to reach agreement on all the outstanding problems at its current session.

5. Brazil supported the suggestion that the Subcommittee should start debating the legal issues related to the future exploration of aerospace systems under agenda item 4 dealing with the definition and delimitation of outer space. That proposal would be helpful in finding a solution to problems relating to the question of application of national and international law.

6. A proposal to create a civil Brazilian space agency out of the various space research institutions and university laboratories was being submitted to the Brazilian Congress for consideration. The proposal's aim was to centralize all national space exploration activities to make better use of available resources and to ensure greater transparency in all national activities and initiatives related to the use of outer space.

7. Mr. AYEWAH (Nigeria) said that, as International Space Year and the tenth anniversary of UNISPACE 82 were both being celebrated in 1992, space exploration and use should continue to attract priority attention. Nigeria had consistently emphasized the need to broaden international cooperation to make space technology available to all countries. Such technology had been applied in areas such as medicine, health, remote sensing, agriculture and the basic sciences and, although the progressive development of the applicable space law had not kept pace with scientific and technological developments in the field, States were becoming increasingly willing to work towards the elaboration of basic principles that would regulate the exploration and use of outer space.

8. The 1967 Outer Space Treaty had provided an initial legal framework and UNISPACE 82 had established both an objective and a programme of action intended to make the benefits of outer space exploration available to all countries. However, activities in outer space over the past 25 years had implied the need to engage in the progressive development and codification of applicable space law in order to match scientific and technological advances and ensure that they were in keeping with the objective of peaceful use and in the interests of development.

9. His delegation had welcomed the agenda item on legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of the developing countries, because it gave the developing countries an opportunity to explain what they expected of space exploration and use. The formulation of that item had also posed a challenge to the major space Powers to demonstrate their readiness to promote international cooperation in the field. Those Powers had a special

responsibility to share their advancement in space technology with other countries in a manner that was mutually beneficial. That responsibility was not viewed as imposing or seeking to impose undue obligations on any State, but rather as an encouragement to the States concerned to share their acquired capabilities with other countries in the spirit and context of international cooperation.

10. The developed and developing countries also had a mutual interest in protecting and preserving the outer space environment for the sake of the planet and for future generations and that mutuality of interest should find expression in international cooperation.

11. The discussion of the definition and delimitation of outer space had for far too long been hampered by political considerations that had tended to negate the benefit which ought to derive from a willingness to remove remaining areas of disagreement. It had taken more than a decade to determine whether or not outer space should be delimited and, even where opinion was less divided as to what altitude should constitute the outer limit of airspace from where outer space ought to begin, member States were still wondering whether the concept of sovereignty should extend to the airspace over their territory. As long as member States found a reason, however tenuous, for not wanting to delimit outer space, developing countries which were not yet in a position to explore outer space would feel that their interest and concern in outer space matters were not relevant.

12. His delegation could not accept that situation. Outer space was part of the common heritage of mankind and it was in the interests of all countries that its exploration and use should be regulated in a rational and equitable manner. In that connection, his delegation reiterated its belief that the definition and delimitation of outer space were a practical and legal necessity and would have to be done in order to draw a clear distinction between airspace and outer space. The time had now come to settle the matter through constructive dialogue, taking the proposal to limit airspace at 90 kms above the Earth as a starting point. In the light of recent technological developments, immediate and decisive action was necessary through the adoption of an enabling legal principle to guarantee the security of States.

13. His delegation welcomed the progress made in the elaboration of draft principles related to nuclear power sources on board space objects. It was aware that nuclear power sources were regarded as the most efficient system of power generation in outer space exploration and other interplanetary missions, but, like other delegations, it was concerned about safety with regard to its use in space. The space Powers had the responsibility to prevent a major disaster arising from an accidental reentry into the Earth's atmosphere of a nuclear-powered space object, particularly bearing in mind that most developing countries did not have the capacity to monitor such an event or to conduct a clean-up operation in the event of impact in their territories. It was therefore to be hoped that the remaining draft principles would be finalized at the Subcommittee's current session.

14. His delegation also believed that advancement in space science and technology should not be seen as the exclusive preserve of any particular country or group of countries. It was particularly important, too, that the developing countries should not see themselves as or be made to feel irrelevant. All nations had a moral responsibility to share knowledge, information and experience in the field in such a way as to make international cooperation a contribution to development.

15. Mr. HODGKINS (United States of America) said that his delegation was concerned about the view of some delegations that the Committee on the Peaceful Uses of Outer Space and its Subcommittees should discuss matters relating to the militarization of outer space. Such discussions would detract from the task of promoting international cooperation in the peaceful uses of outer space. Disarmament questions were, moreover, the mandate of the Conference on Disarmament and other international bodies.

16. His delegation had also long held the view that the Legal Subcommittee should improve its use of conference services and, while welcoming the measures already adopted, considered that more could be done. The United States had always been a proponent of greater efficiency in that area and had therefore been pleased to learn that, in resolution 46/190, the General Assembly had requested all subsidiary bodies to undertake informal consultations on a regular basis for the purpose of improving the utilization of their conference-servicing resources and to report the results of those consultations to the Chairman of the Committee on Conferences. His delegation therefore requested the Chairman of the Legal Subcommittee to organize such consultations among interested delegations as soon as possible during the current session. It had a number of specific ideas and was anxious to hear the views of other delegations. It also requested that the secretariat should make available in time for the first consultations the relevant portions of the General Assembly resolutions referred to in the letter from the Chairman of the Committee on Conferences, dated 30 January 1992 and circulated earlier in the session.

17. At its thirty-fourth session, the Committee on the Peaceful Uses of Outer Space had agreed that the current session of the Legal Subcommittee would be held in Geneva and that the secretariat should support the session, reducing additional non-conference servicing costs in every possible way. He therefore requested the Secretary of the Subcommittee to report on the measures that had been taken to reduce such costs for the current session.

18. The CHAIRMAN said that he was always prepared to convene a meeting of interested delegations to discuss any matters which might improve the Subcommittee's work and enable it to make the best and most efficient use of the services available. If interested delegations would contact the secretariat, an informal meeting would be arranged to discuss all of those matters.

19. Mr. RAO (India) said that, in view of recent significant political developments, peace and order in the world would be complete only with a peaceful, secure and equitable order in outer space. The promotion of the peaceful uses of outer space, as well as the prevention of an arms race in and

the demilitarization of outer space, were closely linked and would significantly facilitate peace, security and order both in outer space and in the world at large.

20. The legal regime for outer space contained in the 1967 Outer Space Treaty was the applicable legal framework within which all specific and newly emerging matters concerning outer space should be examined. In response to the additional demands of a changing world, the basic law of outer space had to be further and progressively developed from time to time, a task with which the Legal Subcommittee had been entrusted. Specific legal instruments had already been developed, on the basis of the 1967 Outer Space Treaty, on matters such as the rescue and return of astronauts, liability for damage caused by space objects and the registration of objects launched into outer space. In addition, legal principles had been developed on direct television broadcasting and remote sensing. The Subcommittee was now asked to extend the development of outer space law to issues concerning the use of nuclear power resources on board space objects, the definition and delimitation of outer space, the character and utilization of the geostationary orbit and outer space benefits, taking into particular account the needs of developing countries. The Subcommittee's mandate was clearly limited to the legal aspects of those matters. His delegation intended to comment in detail on each of those items as they were discussed. In the meantime, it considered that, at its present session, the Subcommittee should endeavour to finalize the principles relating to nuclear power sources. The Scientific and Technical Subcommittee had already offered to draft the preamble to those principles, and that would help the Legal Subcommittee make progress on their consolidation and finalization.

21. The work on outer space benefits could proceed in a substantive way at the present session on the basis of the working paper contained in document A/AC.105/C.2/L.182. In addition, an open-minded and constructive approach on the part of all delegations was needed to deal with the delimitation and definition of outer space in a manner which would go beyond the positions stated by countries in the past. With regard to the geostationary orbit, reference to the non-working paper (A/AC.105/484, annex II, para. 12) submitted at the preceding session was appropriate. The Chairman and Legal Subcommittee could be assured that his delegation would cooperate fully with a view to achieving success at the present session.

22. Mr. RIOFRIO (Ecuador), noting that outer space exploration and utilization activities were assuming ever greater importance for economic and social development, particularly that of the developing countries, said that, in view of the many applications of the utilization of outer space, it was essential that such activities should be regulated in a rational and equitable manner, taking into particular account the needs of the developing countries. International cooperation took on particular meaning in that context and the Sub-Committee's work was essential in defining clear, fair and equitable rules to ensure that all States, regardless of their level of development or technological capacity, could benefit from space exploration.

23. As his country had stated at earlier sessions of the Subcommittee, its position was closely related to that of other developing countries and, in particular, the equatorial members of the Committee on the Peaceful Uses of

Outer Space. It considered that the use of outer space should be exclusively for peaceful purposes; that nuclear power sources on board space objects should be kept to a minimum, under maximum conditions of security; that the geostationary orbit, a limited natural resource, should be linked with the interests, needs and rights of the developing and, in particular, equatorial countries; that there was a need for clear provisions to ensure that the knowledge and applications derived from the exploration and utilization of outer space should benefit all States; and that mechanisms should be established to ensure the necessary international cooperation.

24. With regard to agenda item 4, his country was interested in the proposal contained in annex II, paragraph 12, of document A/AC.105/484, although it considered that earlier proposals were more appropriate, as they took account of the special interests of equatorial countries. In view of the relationship between the geostationary orbit and the gravitational phenomena of the Earth and the fact that the former's physical and technical characteristics were unique to the equator, the geostationary orbit should be subject to a special legal regime that would take account of the interests of all States and, in particular, the needs of the developing countries and the legitimate rights of the equatorial countries.

25. He congratulated the Working Group on agenda item 5 on the progress it had made and said that the working paper contained in document A/AC.105/C.2/L.182 would serve as a sound basis for the achievement of the just aspirations of the developing and equatorial countries.

26. Mr. BOYER (France), noting that the delegation of Nigeria had referred to the challenge to the developed countries to fulfil their obligation to promote international cooperation, said that when the Soviet Union, closely followed by the United States of America, had first sent a man into space some 35 years previously, France had been a developing, if not an underdeveloped, country as far as outer space was concerned. It had since made considerable progress in that area by ensuring that the necessary means were made available for progress in that field and by establishing loyal, fruitful and long-standing cooperation with a number of other countries. Despite such progress, however, France could hardly regard itself as being in a situation comparable to that of the major space Powers. The question of space development must therefore be considered in relative terms.

27. Mr. MENDEZ (Venezuela), referring to the question of the Subcommittee's competence in respect of the militarization of outer space, said his delegation considered that the Subcommittee had a role to play, as its purpose was to work for agreements on the utilization of outer space for peaceful purposes. In that connection, he referred to section II, paragraph 4, of document A/AC.105/C.2/L.182 and said that his delegation was concerned about attempts by some countries to adopt projects involving the militarization of outer space. His country had proposed an amendment to article IV of the 1967 Outer Space Treaty with a view to the inclusion of a reference to additional categories of weapons, such as laser systems.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (agenda item 5) (A/AC.105/484; A/46/20; A/AC.105/C.2/15 and Add.1-13, A/AC.105/C.2/16 and Add.1-10; A/AC.105/C.2/L.182 and L.187) (continued)

28. Mr. YOUNG (United Kingdom) congratulated the Chairman of the Working Group on agenda item 5 on his paper (A/AC.105/C.2/L.187), paragraphs 10 and 12 of which were extremely interesting. With regard to paragraph 10, his delegation believed that the further development of international cooperation was perhaps the most practical and promising way of giving effect to the principle embodied in article I, paragraph 1, of the Outer Space Treaty. There was a plethora of international agreements providing both for bilateral and for multilateral cooperation in a wide range of space research and applications activity and each such agreement was part of a lattice work whose totality represented a concrete expression of the abstract language of that article.

29. His country was actively encouraging greater access to space technology for peaceful purposes and was contributing to that end through fellowships and seminars in the United Kingdom to the bilateral and multilateral training schemes of the British Council, the World Bank, the European Community and the European Space Agency. Its Overseas Development Administration was conducting Government-funded aid programmes involving the utilization of national space technology and communications and the monitoring of agriculture and the environment in recipient countries. It had, for example, funded and installed a national oceanic and atmospheric administration satellite data receiver in Ethiopia and trained local personnel in its utilization, enabling the national meteorological services agency in that country to study environmental conditions in near real time for early warning of adverse conditions. Such factors had led his delegation to endorse paragraph 12 of document A/AC.105/C.2/L.187. As there was so much cooperation already taking place on a voluntary basis and the prospect of much more in the future, his delegation did not see a need to strengthen the existing regime by making cooperation obligatory.

30. It seemed appropriate under agenda item 5 to mention the proposals by the Prime Minister of his country for an improved level of international cooperation in the fields of remote sensing and monitoring of the environment. Such collaboration would involve the exchange of remote sensing data and improved coordination and planning of Earth observation missions. The aim was a truly global observing system for the environment and its preparation would involve ensuring that there was a unified schedule of Earth-observing satellite missions throughout the present decade. The intention was not to expand projected space programmes, but to improve the value obtained from the considerable sums being invested. It was hoped that ideas for strengthening coordination of launches, instruments, data handling and access for research users would be developed. The initiative would fully support the United Nations Earthwatch programme coordinated by the United Nations Environment Programme. His delegation also considered that now was an appropriate time in International Space Year to work together to help ensure that agreement was reached on coordinating the world's environmental

monitoring capability and skills for the benefit and in the interests of all countries. It hoped that the initiative would be an important contribution to the United Nations Conference on Environment and Development.

31. Mr. KOPAL (Czechoslovakia) said that 1992 was exceptional in that it had been declared International Space Year. In accordance with General Assembly resolution 46/45, the Scientific and Technical Subcommittee had devoted a special meeting to that important international event. A series of international conferences and other activities were also to take place during the Year, including a major World Space Congress, to be organized jointly by the Committee on the Peaceful Uses of Outer Space and the International Astronautical Federation and held in Washington D.C. in August-September 1992.

32. One of the reasons for organizing International Space Year in 1992 was to commemorate two great historical events: the discovery of a new continent five centuries previously and the beginning of the space era 35 years previously. However, 1992 also marked the anniversary of two other, though more modest, events closely related to international space law. Thirty years previously, the two Subcommittees of the United Nations Committee on the Peaceful Uses of Outer Space had been established and had held their first sessions. The multilateral legal basis for space activities - the five United Nations treaties currently in force - had been a major achievement of the Committee and its Legal Subcommittee, the most important being the Treaty on Principles Governing the Activities of States in the Exploitation and Use of Outer Space, including the Moon and Other Celestial Bodies, which had entered into force in 1967.

33. All five space treaties had been concluded during the long cold-war period. The 1967 Outer Space Treaty was, however, not a typical product of that period, but rather, the result of a political warming. Although it was a compromise in many respects, that Treaty had remained one of the outstanding law-making instruments of current international law, enjoying wide endorsement among the international community, as acknowledged in General Assembly resolution 42/68.

34. It should be noted that it was not by chance that the Subcommittee was currently discussing, as agenda item 5, the question of the implementation of the fundamental principle contained in article I of the Outer Space Treaty, with due regard to conditions prevailing in the world at the current time. As he had already emphasized in previous statements to the Subcommittee, the consideration of agenda item 5 should lead to the strengthening and further development of that principle, as well as of the principle of international space cooperation, as defined in article IX of the Outer Space Treaty. In discussions in the Working Group on agenda item 5, specific areas in which international cooperation could be progressively developed had been identified and specific forms of cooperation agreed upon. In that connection, he appreciated the working paper contained in document A/AC.105/C.2/L.182, which reflected the needs of the developing countries and expressed views on how those needs could be satisfied. It also gave delegations of other countries an opportunity to present their own views and suggestions. His delegation was endeavouring to contribute constructively to the discussions and understood the need to take account of the needs of the developing countries. It

nevertheless wished to remain within the scope of the existing principles of international space law as embodied in the Outer Space Treaty and other relevant United Nations instruments.

35. Since the title of agenda item 5 was couched in very broad terms permitting discussion of all aspects of the topic, Czechoslovakia drew the attention of the Subcommittee and its Working Group to the need to protect the space environment against pollution of all kinds and, more particularly, against the generation of space debris. That subject had been touched on in paragraph 8 of the paper by the Chairman of the Working Group on agenda item 5 (A/AC.105/C.2/L.187). The inclusion of space debris under agenda item 5 was in conformity with General Assembly resolutions 45/72 and 46/45, recommending that more attention should be paid to the protection and the preservation of the outer space environment, especially those aspects potentially affecting the Earth's environment. General Assembly resolution 46/45 further considered space debris as an appropriate subject for in-depth discussion by the Committee on the Peaceful Uses of Outer Space.

36. At the twenty-ninth session of the Scientific and Technical Subcommittee, Poland had called in document A/AC.105/C.1/L.181 for a working group to be set up to prepare a report on the preservation and protection of the outer space environment with particular reference to activities likely to affect the Earth's environment; Czechoslovakia had considered the definition of space debris in document A/AC.105/C.1/L.184 and set out a possible format for discussion on the subject in the Committee; and Germany, in a national paper included in document A/AC.105/510/Add.2, had reviewed the work done on the subject in that country. In the ensuing discussion in the Subcommittee, a number of delegations had considered that, since 1992 was International Space Year, space debris should be included as a topic for a general exchange of views and information on the agenda of its next session. Other delegations, while recognizing the importance of the subject, had felt that such consideration would be premature until further national research had been undertaken.

37. The problem of space debris also had its legal aspects, which had been discussed in greater detail in various non-governmental forums, such as the International Law Association's Space Law Committee and the International Institute of Space Law of the International Astronautical Federation, in so far as the definition of space debris and the relation of that term to other legal terms such as "space object and its component parts" was concerned. Other problems considered had included the legal status of space debris, which should be dealt with when measures to prevent its proliferation were considered. Similar problems had already been discussed by the Legal Subcommittee in relation to the draft principles relevant to the use of nuclear power sources in outer space. The Subcommittee should be cognizant of those problems and ready to assist the Committee and its Scientific and Technical Subcommittee when, as was hoped would soon be the case, they embarked on a discussion of the problem.

38. Mr. RAO (India), stressing the practical importance of agenda item 5 for developing countries, said that, in the quarter century since the adoption of the Outer Space Treaty, outer space had yielded enormous benefits in a number of fields, some of which had proved their commercial viability. Those

benefits had, however, not yet reached all States and peoples, as article I of the Treaty stipulated. The gap between legal provisions and their practical implementation and between the recipients and non-recipients of space benefits deserved constructive and cooperative consideration from all States members of the Subcommittee.

39. The topic had been dealt with in the paper by the Chairman of the Working Group on agenda item 5 (A/AC.105/C.2/L.187), which had considered the priority to be given specific subjects, national legal frameworks and international agreements. Very few States at present had national legislation governing outer space, although several were parties to United Nations conventions or agreements on the subject and some were also parties to bilateral or multilateral agreements. The working paper contained in document A/AC.105/C.2/L.182 represented a balanced attempt to deal with the problem and was at present under consideration in the Working Group. It was concerned with how to strengthen and promote the principle of international cooperation in the exploration and utilization of outer space. Further development of that principle would have to take existing realities into account and, as set out in the terms of reference of agenda item 5, pay special attention to the needs and interests of developing countries.

40. The current discussion of the paper in the Working Group was constructive and useful. India, as a developing country participating in outer space activities and a party to international agreements and United Nations conventions on the subject, considered the subject of outstanding historical and practical importance. India's interest in space activities had been to derive benefit for its economy and its people as a whole from such aspects as access to and participation in outer space activities, the transfer of technology and technological expertise without discrimination, the exchange and dissemination of information, training, the development of the requisite scientific and technological infrastructures and access to funding. The legal aspects of that list of issues, which was not an exhaustive one, would need to be considered by the Subcommittee.

41. Favourable treatment was necessary for developing countries within the framework of mutual cooperation among all States. Such treatment could not be considered as a violation of the principle of equality, since such positive discrimination was not uncommon in established legal systems.

42. Lastly, although the consideration of the legal aspects of the above-mentioned issues would be useful, it should not be forgotten that the principal concern of agenda item 5 was to contribute to the promotion of the peaceful uses of outer space with a view to global development and fuller access by all States and peoples to outer space benefits. India would continue to play a constructive part in the debate on the item.

43. Mr. ABBAS (Pakistan) said that, as one of the sponsors of document A/AC.105/C.2/L.182, his delegation was ready to give due consideration to all points of view relating to the legal aspects associated with agenda item 5 in order to translate such ideas into a consensus document. Agenda item 5 had arisen out of article I of the 1967 Outer Space Treaty, which had expressed the common interest of all mankind in the outcome of the use of outer space.

In the present state of development of space technology, it was clear that only the peaceful uses of outer space could be considered as a common interest that would bring economic benefits for all mankind.

44. In response to Secretary-General's request for comments from Governments on certain specific aspects of the work of the Committee on the Peaceful Uses of Outer Space, Pakistan had, in document A/AC.105/C.2/16/Add.1, suggested the following three concepts for discussion: (a) the distinction between space-oriented and Earth-oriented activities of States and between the "use of outer space" and "use of objects" for the exploration of resources; (b) the requirements of an international agreement to implement the principle of the benefit and interests of all countries and the basis for equitable sharing of such benefits by all States; and (c) the promotion of international cooperation, particularly involving the developing States, especially to enable them to participate in international space programmes. It would be a fitting tribute to International Space Year if all member States of the Committee on the Peaceful Uses of Outer Space could reach an agreement in 1992 to work collectively for realization of the ideals set out in article I of the Outer Space Treaty. Enhancing international cooperation in the exploration of peaceful uses of outer space, the common heritage of mankind, would be of benefit to all.

45. Mr. REESE (United States of America) said that agenda item 5 had been adopted by consensus after long and intensive consultations among delegations representing a wide variety of interests. It should be stressed that the new item provided for an exchange of views, but did not, as had been suggested by some, provide a mandate for the negotiation of a new international legal framework. With that in mind, he looked forward to a full exchange of views on what was a very important topic.

46. A detailed timetable and programme of work had been drawn up for agenda item 5 by the Subcommittee at its twenty-eighth session. As a result, member States had submitted information on their national legal frameworks and the international legal agreements to which they were parties. That information and the results of the Subcommittee's review of it would be considered by the Working Group, thus providing a solid foundation for gaining a fuller understanding of the legal and practical aspects affecting the use of outer space for the benefit of all. Since the success of that work depended on a broad response from member States, it was disappointing that only a little more than half had replied.

47. The most immediate task for the Working Group was to consider in a detailed and systematic way the conclusions of document A/AC.105/C.2/L.187 prepared by the Chairman of the Working Group on agenda item 5 at the request of the Subcommittee. That should enable the Subcommittee to draw its own conclusions on the application of article I of the Outer Space Treaty at the national and international levels. He looked forward to participating in those discussions.

48. Mr. van de VELDE (Netherlands) said that he fully endorsed what had been said by the representative of Czechoslovakia concerning the title of agenda item 5. In particular, his delegation shared Czechoslovakia's views with regard to space debris, a universal problem that required the coordinated

involvement of the international community at the global, scientific, technical and legislative levels if the benefits of space activities were to be reaped.

49. Mr. GONZALEZ (Chile), speaking as Chairman of the Working Group on agenda item 5 and referring to the statements made by the representatives of Czechoslovakia and the Netherlands, said that the question of space debris and, in particular, its legal aspects was very important and should be considered fully as soon as possible.

50. Mr. TETU (Canada) said that he shared the representative of Czechoslovakia's views on space debris. His delegation had already expressed its interest in the subject in the Scientific and Technical Subcommittee. In his opinion, the scientific, technical and legal aspects of the subject ought to be considered as soon as possible.

The meeting rose at 12.20 p.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 554th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 27 March 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

Statement by the Secretary of the Subcommittee

The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles at the current session

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GE.92-60925/3511H

The meeting was called to order at 10.40 a.m.

STATEMENT BY THE SECRETARY OF THE SUBCOMMITTEE

1. Mr. BASNAYAKE (Secretary of the Subcommittee) said that, at the 553rd meeting, the United States representative had requested him to report on the measures taken to reduce additional non-conference servicing costs for the present session. In that connection, he recalled that, at its thirty-fourth session, the Committee on the Peaceful Uses of Outer Space had decided that the Subcommittee's present session would be held in Geneva and that the Secretariat should support that session, reducing in every possible way additional non-conference servicing costs (A/46/20, para. 156).

2. The Secretariat had always sought to keep those costs as low as would be consistant with the proper discharge of its functions. Even further efforts at economy had been made in recent years in view of the financial constraints being experienced by the United Nations. However, in response to the Committee's decision, the Secretariat had once again carefully reviewed its requirements and had managed to achieve a further reduction. Specifically, temporary secretarial assistance had been decreased, leading to a modest reduction in costs of between $800 and $900. The overall Secretariat support of the session had thus been reduced to a minimum and any further reduction was likely to have negative consequences on the Secretariat's ability to service the work of the Subcommittee successfully.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE, WITH THE AIM OF FINALIZING THE DRAFT SET OF PRINCIPLES AT THE CURRENT SESSION (agenda item 3) (A/AC.105/484; A/AC.105/C.2/L.154/Rev.11)

3. The CHAIRMAN, introducing agenda item 3, said that the relevant section of the Subcommittee's report on its thirtieth session (A/AC.105/484) was chapter I. The report of the Chairman of the Working Group on Nuclear Power Sources was contained in annex I to that report and a number of working papers on nuclear power sources were contained in annex IV, section A.

4. The Subcommittee's work on nuclear power sources had been reviewed by the Committee on the Peaceful Uses of Outer Space at its thirty-fourth session. The Committee had reached consensus on draft principle 8 (Responsibility) and draft principle 9 (Liability and compensation), as stated in its report (A/46/20, paras. 101 to 115 and 151 (a)).

5. The question of the use of nuclear power sources in outer space was also being considered by the Scientific and Technical Subcommittee and the report of its Working Group on the Use of Nuclear Power Sources was contained in annex III to its report (A/AC.105/513). The working paper which had been submitted to that Subcommittee and contained a draft preamble to the principles relevant to the use of nuclear power sources in outer space (A/AC.105/C.1/WG.5/L.29) was to be found in the appendix to the report of the Working Group.

6. In resolution 46/45, the General Assembly had recommended that the Legal Subcommittee should continue, through its working group, the elaboration of

draft principles relevant to the use of nuclear power sources in outer space with the aim of finalizing the draft set of principles at the current session.

7. A few days previously, Canada and Germany had submitted a new working paper in document A/AC.105/C.2/L.154/Rev.11, which contained a composite text of both agreed and not yet agreed provisions on nuclear power sources principles.

8. The Subcommittee had been considering agenda item 3 for over a decade and it would be agreed by all that the elaboration of draft principles had now entered the final stage. The parent Committee had urged the Subcommittee to make every effort to arrive at a final text as early as possible, but the General Assembly had gone even further and had recommended that the principles should be finalized at the current session. He therefore urged all members of the Subcommittee to be guided by a spirit of compromise in order to carry out the task entrusted to them by the international community.

9. Mr. TETU (Canada), introducing the working paper submitted by Canada and Germany (A/AC.105/C.2/L.154/Rev.11), said that the Subcommittee's mandate with regard to the elaboration of a set of principles relevant to the use of nuclear power sources in outer space was clearly spelled out in General Assembly resolution 46/45. As stated in the fourth paragraph of the working paper, principles 1, 3, 5, 6, 7, 8, 9 and 10 had already been agreed. The Subcommittee thus had to agree on the draft preamble submitted to the Scientific and Technical Subcommittee (A/AC.105/C.1/WG.5/L.29), as well as on draft articles 1 A, 4 and 12 on which a large measure of agreement already existed. It would also have to tighten up the text before the whole set of principles could be finalized.

10. His delegation called on all other delegations to help conclude that key environmental exercise at the current session, thereby making a significant contribution to the celebration of International Space Year.

11. Mr. RAO (India) said the aim of the Committee on the Peaceful Uses of Outer Space and its Subcommittees in dealing with agenda item 3 was to ensure that the use of nuclear power sources in outer space did not result in danger to populations and the environment or to the missions and space objects involved. To that end, the Scientific and Technical Subcommittee was called upon to formulate guidelines and criteria to provide satisfactory safety measures. The task of the Legal Subcommittee was to provide "legal clothing" for the provisions adopted by the Scientific and Technical Subcommittee, as well as to set other legal standards for the use of nuclear power sources and to deal with situations where damage occurred as a result of the use of such sources.

12. It had thus become necessary to deal with the legal issues of information, safety assessment, notification of re-entry, consultations, assistance, responsibility and liability. Any meaningful set of principles obviously had to be both scientifically and technically strict and legally comprehensive.

13. The Subcommittee had reached consensus on most of the draft principles, but there were still some outstanding issues that had to be discussed at the

current session. His delegation was one of the sponsors of the draft preamble prepared by the Scientific and Technical Subcommittee and considered that the draft principles should be prefaced by such a text. Obviously, the purpose of the preamble was to introduce the operative part of the text without overriding its substance in any way.

14. The outstanding issues related to principle 2 on notification and principle 4 on safety assessment. Notification involved details of launching, such as location, site and time, which were made available to the Secretary-General of the United Nations in accordance with the 1975 Convention on Registration of Objects Launched into Outer Space.

15. The principle of safety assessment related to the phases of the mission and the systems involved, including the means of launching, the space platform, the nuclear power source and its equipment and the communication subsystem. Safety assessment was of obvious importance for any legal regulation of nuclear power sources and a consensus between the differing views would have to be worked out. One view, which India itself had held so far, was that notification and safety assessment were two different and independent principles. In order to promote consensus, however, his delegation was prepared to give up that position and agree on a merger. India had also held the view that notification and safety assessment should be made prior to each launch, but it was prepared to see the requirement of prior information dispensed with in so far as notification was concerned. That requirement should, however, be retained in respect of safety assessment. His delegation hoped that other delegations would be equally accommodating and it was willing to work with them in order to find compromise wording.

16. The developing countries, including India, were concerned about a situation in which an outer space object with nuclear power sources on board was launched from the territory of a State and the equipment, design, manufacturing of the object were all done by another State or its agency. Only the latter would have full and complete scientific and technical knowledge of the project. If, owing to a scientific or technical fault, the object failed, causing damage to a third State, there should be some responsibility for the manufacturing State, which has technical knowledge in the matter. That responsibility should relate to the requirements of safety assessment, observance of scientific and technical guidelines, costs of assistance in clean-up operations and compensation for damage.

17. He was not contending that the State from whose territory the launch was made had no international accountability, but he did want to stress that the type of launch was an equally important legal consideration which should go into defining what constituted a "launching State" for the purpose of dealing with the legal consequences and promoting international cooperation in the exploration and utilization of outer space, taking into particular account the needs and interests of developing countries.

18. His delegation was opposed to the reopening of the discussion on the principles on which consensus had already been arrived at because every

delegation was bound to have a problem with one principle or another and, once the discussion was reopened, the principles might all have to be reconsidered.

19. Mr. van de VELDE (Netherlands) said that the working paper contained in document A/AC.105/C.2/L.154/Rev.11 fully reflected the discussions held and the progress made at the twenty-ninth session of the Scientific and Technical Subcommittee and provided a solid basis for finalizing the draft set of principles on nuclear power sources. His delegation fully supported the goal of Germany and Canada that the principles should be finalized at the current session of the Legal Subcommittee, as recommended by the General Assembly in its resolution 46/45.

20. The Committee on the Peaceful Uses of Outer Space and its Subcommittees had been involved in the elaboration of draft principles relevant to the use of nuclear power sources in outer space for over 10 years. The views and opinions of all interested delegations were well-known and what was possible and what was beyond reach had also become quite clear. His delegation therefore hoped that the working paper would prompt a constructive dialogue and creative solutions so that the Subcommittee could overcome the remaining obstacles and agree on a final set of principles.

21. The draft preamble submitted to the Scientific and Technical Subcommittee (A/AC.105/C.1/WG.5/L.29) should also help the Legal Subcommittee complete the set of draft principles at the current session. Such an achievement would emphasize the growing consensus within the United Nations on a broad range of issues, confirm the credibility of multilateral diplomacy and contribute to International Space Year.

22. Ms. GRAEFIN von ROEDERN said that the working paper contained in document A/AC.105/C.2/L.154/Add.11 included all the principles which had been adopted so far, a number of principles still under consideration and a preamble. The text of the preamble was the one which had been drawn up at the last session of the Scientific and Technical Subcommittee and it was to be hoped that it would be adopted at the current session of the Legal Subcommittee.

23. Principle 1 A was still under discussion, although the Committee on the Peaceful Uses of Outer Space had considered that it should be ready for adoption at the Subcommittee's current session. Principle 4 had also been considered ready for adoption, as it reflected the consensus achieved in 1990 in the Scientific and Technical Subcommittee, whose Working Group had noted that countries launching nuclear power sources should conduct safety assessments of those systems and make those assessments publicly available.

24. Principle 12, containing the revision clause, had basically been agreed on by the Scientific and Technical Subcommittee, which had reached a consensus that the principles relevant to nuclear power sources should be reviewed after their adoption, but had not set a specific deadline for such a review.

25. Her delegation was entirely open as to the time-frame suggested in principle 12. Since nuclear power sources involved high technology, it was prepared to shorten the revision period to as little as two to five years.

26. The Legal Subcommittee had been working on the nuclear power source principles for over 10 years and her delegation therefore appealed to all other delegations to work towards a consensus on the entire set of principles so that they might be adopted in 1992, thereby making a fruitful contribution to International Space Year.

The meeting rose at 11.25 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 555th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 30 March 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles (continued)

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The meeting was called to order at 10.40 a.m.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE, WITH THE AIM OF FINALIZING THE DRAFT SET OF PRINCIPLES (agenda item 3) (continued) (A/AC.105/484 and 513; A/46/20; A/AC.105/C.2/L.154/Rev.11)

1. Mr. SUSSUMU FUJITA (Brazil), referring to the comment made by the representative of Germany at the preceding meeting to the effect that a consensus had been reached on the text of principle 4 at the 1990 session of the Scientific and Technical Subcommittee, said that agreement surely extended only to the technical elements of principle 4. The Scientific and Technical Subcommittee had no competence to decide on the legal terms in which principle 4 was expressed and the Legal Subcommittee was not bound by the technical findings of the Scientific and Technical Subcommittee when it was discussing the legal drafting of principle 4. The Legal Subcommittee might wish to include other elements that were not technical in nature, but were juridically necessary. As a matter of principle, therefore, consensus on technical points in the Scientific and Technical Subcommittee, although important, was not the only element on which the Legal Subcommittee should base its legal drafting.

2. At the 1992 session of the Scientific and Technical Subcommittee, moreover, the representatives of the United States and Brazil had indicated, in reply to the question of the representative of Canada whether a consensus existed on the technical contents of principle 4, that the points relating to principle 4 under consideration in the Legal Subcommittee were not only technical ones, so that it was not appropriate for the Scientific and Technical Subcommittee to say that a consensus had been reached. No consensus existed either in fact or in principle.

3. Mr. BROTODININGRAT (Indonesia) said that his country in no way rejected the use of nuclear power sources on board space objects, for such use was a consequence of scientific progress. Because nuclear power sources were a potential threat to human life and the bio-environment, however, he shared the view that their use in outer space should be limited or avoided whenever other alternatives were available. Any use of nuclear power sources on board space objects should be subject to maximum safety measures; further research was essential to eliminate danger. The use of nuclear power sources should be governed by a set of legal principles requiring strict safety procedures and criteria and guaranteeing full protection for countries exposed to harmful effects in the event of the malfunctioning of space objects equipped with nuclear power sources. Such principles would serve as a confidence-building measure. Like others, his delegation urged the Working Group on agenda item 3 to make every effort to finalize the draft principles at the present session and endorsed the appeal by the Chairman of the Working Group that the discussion on some draft principles already agreed by consensus at earlier sessions should not be reopened. It agreed that the draft set of principles should serve as the basis for the discussion of a final text.

4. Ms. GARCIA GUERRA (Mexico), welcoming the progress made in recent years on agenda item 3, said her delegation hoped that the draft set of principles could be finalized at the present session. Since the discovery of nuclear

energy, it had been man's hope to use it for peaceful purposes. That hope had been expressed in the first resolution ever adopted by the United Nations General Assembly (resolution 1 (I)), which had established a Commission to deal with the problems raised by the discovery of atomic energy and make specific proposals for the control of atomic energy to the extent necessary to ensure its use only for peaceful purposes and for the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction. Forty-six years later, it might be asked whether the power sources to be used for the laser beams developed under the Strategic Defense Initiative would be in keeping with the principles for the use of nuclear power sources in outer space now under consideration in the Subcommittee.

5. Her delegation hoped that those draft principles would provide adequate protection for the Earth's population and environment and for the environment of outer space and contain clearly defined provisions relating to safety standards and procedures for determining responsibility in the event of accidents involving nuclear power sources. She welcomed document A/AC.105/C.2/L.154/Rev.11, which had been submitted by Canada and Germany, provided an overview of the draft principles that was not available in other documents and would enable the Subcommittee to uphold the agreement referred to in paragraph 106 of the report of the Committee on the Peaceful Uses of Outer Space (A/46/20), namely, that delegations should be kept fully informed on developments in the negotiations on the draft principles.

6. With regard to the draft preamble to the set of principles (A/AC.105/513, appendix), she proposed that an additional paragraph should be added recalling that, pursuant to article IV of the 1967 Outer Space Treaty, nuclear power sources should be used in outer space for peaceful purposes only. She was also concerned that the fifth preambular paragraph appeared to restrict the application of the draft principles solely to nuclear power sources devoted to generation of electrical power on board space objects. Her delegation attached particular importance to the last preambular paragraph, which was closely linked to draft principle 12 relating to the possibility of revising the principles in the light of technological developments or any other circumstance affecting their application.

7. Draft principle 4 on safety assessment included the provisions of former draft principle 2 on notification. Its title should therefore be amended to indicate that it covered both safety assessment and notification of the presence of nuclear power sources on board space objects.

8. Mr. BOYER (France) said that his delegation had constantly advocated a close working relationship between the two Subcommittees of the Committee on the Peaceful Uses of Outer Space; it would serve no useful purpose if they were at loggerheads. It was nevertheless true, as the representative of Brazil had said, that the decisions of the Scientific and Technical Subcommittee were not binding on the Legal Subcommittee. Any confusion on that score could be rapidly dissipated if the independence of the two Subcommittees and the need for them to work together were borne in mind.

The meeting rose at 11 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 556th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 31 March 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles (continued)

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GE.92-60982/9297a

The meeting was called to order at 10.35 a.m.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE, WITH THE AIM OF FINALIZING THE DRAFT SET OF PRINCIPLES (agenda item 3) (continued) (A/AC.105/484 and 513; A/46/20; A/AC.105/C.2/L.154/Rev.11)

1. Mr. MALPEDE (Argentina) said that the Subcommittee now had a perfect opportunity to finalize the draft set of principles relevant to the use of nuclear power sources in outer space. His delegation considered that the working paper contained in document A/AC.105/C.2/L.154/Rev.11 submitted by Canada and Germany would serve as an excellent basis for a consensus on draft principles 1A, 4 and 12. It also supported the draft preamble proposed for inclusion in the set of principles as a compromise solution.

2. Some of the doubts that certain delegations had expressed about the definition contained in principle 1A and its relationship with the safety measures provided for in principle 4 might be dispelled if those two principles were interpreted in the light of article II, paragraph 2, of the Convention on Registration of Objects Launched into Outer Space. In his delegation's opinion, that article should be applied for the purpose of principle 4 or, in other words, prior to launching. The determination whether the State launching or promoting the launching or the State from whose territory or installations the space object was launched should carry out the safety assessment should be undertaken jointly.

3. He noted that the purpose of the Convention on Registration of Objects Launched into Outer Space was to determine "jurisdiction" and "control", while that of principle 4 was to determine which State would carry out the assessment and approve the launching; that logic was based on principles of international law such as those of cooperating and negotiating in good faith, preventing damage and holding consultations. Similarly, the aim of the draft principles was to protect human life and the environment of the Earth and of outer space.

4. In conclusion, his delegation agreed with those which had said that the period for the review of the effectiveness of the principles should be shortened to ensure that the principles kept pace with new conditions created by technological advances. The Subcommittee could not run the risk of making it impossible to implement principles that were out of date.

The meeting rose at 10.50 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 557th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 2 April 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles (continued)

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GE.92-61069/3570H

The meeting was called to order at 10.40 a.m.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE, WITH THE AIM OF FINALIZING THE DRAFT SET OF PRINCIPLES (agenda item 3) (continued) (A/AC.105/484; A/AC.105/513; A/AC.46/20; A/AC.105/L.154/Rev.11)

Ms. VENTURINI (Italy) said that her delegation was fully satisfied with the positive results which the Committee on the Peaceful Uses of Outer Space and its Subcommittees had achieved on the draft principles relevant to the use of nuclear power sources in outer space. Consensus had thus been reached on the applicability of international law, guidelines for safe use, notification of re-entry and assistance to States, consultations, responsibility, liability and compensation and settlement of disputes.

The Legal Subcommittee now had to adopt the preamble and principle 12, on the one hand, and principles 1 A and 4, on the other. Her delegation looked forward to cooperating in the constructive spirit shown by all delegations so that a decision on those principles might be reached as soon as possible. The Subcommittee should bear in mind, however, that, because of the importance of the issues involved, only a genuine consensus could lead to an effective universal code of conduct to govern the activities of States in outer space.

Agreed principles for the use of nuclear power sources in outer space would be needed soon in order to ensure that the timely development of the high energy capabilities of States was not hampered by technical and political problems and that the confidence of States in the applications of nuclear power sources was not eroded. Great skill would thus be required to strike a fair balance between the interests of States which legitimately pursued the peaceful uses of outer space and the need to ensure that their actions did not endanger persons, property and the environment. The scope and wording of the principles also had to be clearly understood to avoid any risk of ambiguity. Substantial progress appeared to have been made in efforts to achieve those objectives.

A problem to which her delegation had drawn attention on earlier occasions was that the preservation of the outer space environment was closely related to all national and international space activities. Collisions between space objects with nuclear power sources on board and even a small fragment of space debris would have very serious consequences. Measures to limit the production of space debris would therefore have to supplement measures to ensure the safe use of nuclear power sources in outer space. That issue should be given careful consideration by the Committee and its Subcommittees in their discussions of the legal aspects of international cooperation.

Ms. GRAEFIN von ROEDERN (Germany) said that, as a result of the Subcommittee's constructive discussions in the past week, agreement had been reached on a number of unresolved issues. If the remaining problems were also tackled in a constructive way, it should be possible for the Committee on the Peaceful Uses of Outer Space to adopt the entire set of draft principles at

its forthcoming session. As the draft principles dealt with high technology, a revision clause enabling the Committee to react to new developments and technologies from a legal and technical point of view was extremely important.

After 13 years of deliberations, joint efforts by all delegations would continue to be necessary for the adoption of the set of draft principles. In that connection, the Chairman of the Working Group on Nuclear Power Sources was to be congratulated on the efforts he had made to achieve a consensus.

Mr. TETU (Canada) said that he endorsed the views expressed by the representative of Germany and joined in her tribute to the Chairman of the Working Group on Nuclear Power Sources. A great deal of work on the outstanding principles had been done in the past week and he was confident that a consensus could be achieved with only a little more time and effort.

The CHAIRMAN announced that the Subcommittee had completed its consideration of agenda item 3.

The meeting rose at 10.55 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 558th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 April 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

General exchange of views (continued)

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GE.92-61085/3582H

The meeting was called to order at 10.45 a.m.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (agenda item 4) (A/AC.105/484, A/AC.105/513, A/46/20, A/AC.105/C.2/L.189)

1. The CHAIRMAN, introducing agenda item 4, drew attention to the report of the Legal Subcommittee on the work of its thirtieth session (A/AC.105/484) and, in particular, to chapter II and annex II; the report of the Committee on the Peaceful Uses of Outer Space (A/46/20, paras. 116-125 and 151 (b)); the report of the Scientific and Technical Subcommittee (A/AC.105/513, chap. VI); General Assembly resolution 46/45; and the working paper submitted by the Russian Federation (A/AC.105/C.2/L.189).

2. Mr. PODCHERNIAEV (Russian Federation) said that the working paper submitted by his delegation (A/AC.105/C.2/L.189) was intended to serve as a basis for a constructive exchange of views, even though the outcome of the discussions was not expected to be positive in every respect.

3. Mr. ZAWELS (Argentina) said his delegation believed that it was necessary to determine the limit between airspace and outer space, as each was subject to a different legal regime. It had been pointed out in the Subcommittee that the absence of delimitation had so far not given rise to any practical problems. There were, however, two different positions on the function of the law. The first was that the establishment of rules was necessary only when a problem arose and the second, with which his delegation agreed, was that the function of the law was not only to solve existing problems, but also to anticipate problems which might arise in future.

4. The working paper submitted by the Russian Federation (A/AC.105/C.2/L.189) contained questions concerning the legal regime for aerospace objects and provided a good basis for the consideration of the problem of the legal vacuum with regard to the delimitation of outer space and airspace. His delegation hoped that the Legal Subcommittee would consider the working paper in a spirit of cooperation and not rule out the possibility of requesting the Scientific and Technical Subcommittee to discuss the scientific and technical aspects of the flight of aerospace objects.

5. His delegation continued to be of the opinion that the geostationary orbit was an inseparable part of outer space and a limited natural resource that should be used in a rational and equitable manner. It was therefore opposed to any claim of sovereignty over that orbit and in favour of establishing a special legal regime. It recognized and supported the work being done by the International Telecommunication Union on the allocation of the use of the radio frequency spectrum on the geostationary orbit, but none the less considered that the problems relating to the orbit went beyond that organization's technical terms of reference.

6. In 1991, a number of delegations had submitted a working non-paper on the geostationary satellite orbit (A/AC.105/484, annex II, para. 12) which was of great significance because it did not deal with concepts that had, for many

years, made it impossible to agree on a point of departure for the discussion of the topic. It established a number of general principles and dealt with access, which was an important question in view of the real and potential increase in the number of satellites, particularly communication satellites, in the geostationary orbit. Apart from the inherent limitations of the frequency spectrum used in accordance with ITU regulations, such satellites were limited by the concentration of the satellite population in particular areas, such as the Atlantic. Access to the geostationary orbit had to be equitable and take account of the fact that the less developed space nations which wished, or might wish in future, to have access to the orbit were at a disadvantage compared with the more developed space nations which had been using the geostationary orbit for decades. The problem already existed and could be expected to become more serious in future. Efforts therefore had to be made to find a solution within a legal framework.

7. The working non-paper could also be used as a starting point for the discussion of environmental hazards caused by space debris. The available technical data on that problem indicated that, although there had been no reports of any serious collisions between satellites and space debris, the likelihood of such collisions was increasing and a legal regime therefore had to be established so that States which were utilizing satellites in the geostationary orbit and those which intended to do so in future could avoid major expenditure.

GENERAL EXCHANGE OF VIEWS (continued)

8. Mr. MADDERS (Observer for the European Space Agency) said that the contribution the European Space Agency's ERS-1 satellite, launched in 1991, was making to environmental monitoring had been widely recognized and would be discussed at the World Conference on Environment and Development to be held in Rio de Janeiro in June 1992. In the past year, ESA had concluded some 20 additional agreements with entities around the world providing for their access to and use of environmental data generated by ERS-1. Such progress met applicable international standards relating to the distribution of data, while the content of the agreements on matters such as copyright in respect of data had established a substantial body of legal practice. The European Centre for Space Law, which received support from ESA, was examining the legal implications of such questions and, in the next year, planned to publish its findings on the protection of remote-sensing data rights. It had just held a seminar on the subject at the International Space Year Conference in Munich.

9. Since the Subcommittee's last session, fresh impetus had been given to international cooperation by the ministerial meeting of the Council of the European Space Agency held in Munich in November 1991. The Council had recognized that the changed international situation now enabled and encouraged countries, more than ever before, to pool their space capabilities and resources and it had directed ESA to consider possibilities for cooperation in determining the best means of implementing major hardware development programmes.

10. Broader international cooperation could produce capabilities that would offer significant benefits in terms of access to and the use of outer space. The successful use of such technologies for any length of time was, however,

subject to the qualification that spacecraft should not be exposed to undue levels of risk owing to the presence of space debris. While current levels of risk were still relatively small, ESA had been trying since 1985 to understand how such risk might develop in order to be able to make realistic assessments relating to manned missions and unmanned spacecraft.

11. ESA's early concern in that regard had been the need to predict the re-entry of space objects and the risk of collision in the geostationary orbit. In view of the decision to embark on the Hermes and Columbus manned programmes in 1987, however, it had established a working group in 1986 to produce a comprehensive analysis of space debris hazards. The working group's 1988 report contained a survey of available sources of data; a synthesis of findings drawn from ESA and national studies on the debris situation in the geostationary and low Earth orbits; an evaluation of risks on the ground posed by re-entering uncontrolled space objects; and details of protective and preventive measures. Data from United States sources were also essential for estimates of debris populations and risks of collision. Having received the comprehensive briefing it had sought, the ESA Council had adopted a policy on space debris in 1989 which was designed to minimize the creation of debris; reduce the risk for manned and unmanned space flight; and reduce risk on re-entry; and implement a data acquisition programme.

12. Other relevant aspects were also to be studied in two phases: the first for analysis and preparation and the second for implementation and operations. In the first phase, ESA had established a database for risk assessments and engaged in exchanges of information with other space agencies through direct contacts and in the ESA Space Debris Advisory Group. Exchanges of information had also taken place with United States, Russian and Japanese bodies. ESA had helped to show how effective international cooperation could be on the occasion of the Salyut-7/Kosmos-1686 re-entry, in connection with which the European Space Operations Centre had acted as the central hub for data exchanges between several space organizations.

13. In the second and current phase, preventive measures, such as the venting of Ariane upper stages in sun-synchronous orbit and reorbiting of geostationary spacecraft, were already being implemented. The general knowledge gained during the first phase was serving as a basis for the study of specific issues, including impact analysis of material returned from space; the preparation of generic technologies for the shielding and protection of space vehicles; the investigation and application of debris prevention methods; and the use of optical and radar observation techniques.

14. One of the conclusions reached during the first phase of ESA's space debris activities was that broad international cooperation was essential and should be intensified in the years ahead. Thus, in addition to the efforts it would be making with regard to project cooperation, ESA was advocating cooperation for the purpose of understanding more fully and dealing with the hazards posed by space debris.

The meeting rose at 11.20 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 559th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 April 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union (continued)

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GE.92-61122/3597H

The meeting was called to order at 10.40 a.m.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (agenda item 4) (continued) (A/AC.105/484, A/AC.105/513; A/46/20; A/AC.105/C.2/L.147 and 189)

1. Mr. POERWANA (Indonesia) said that the definition and delimitation of outer space and the character and utilization of the geostationary orbit were important subjects which should be discussed as a single issue, since any decisions relating to one would affect the other.

2. The problems of the definition and delimitation of outer space had been discussed at length ever since it had first been raised in 1959 and it now had to be solved in order to strengthen the legal order pertaining to space activities. Opinion on the subject was, however, divided. His country regarded delimitation as essential, since the boundary between airspace and outer space would have a direct impact on the territorial boundaries of sovereign States, and considered that it should be agreed by consensus among States, taking into account the principles of the sovereignty of each State over its territory and the permanent sovereignty of peoples over the natural resources within their territory. He welcomed the working paper submitted by the Russian Federation (A/AC.105/C.2/L.189), which clarified the points at issue and provided a good basis for further discussion.

3. As far as the geostationary orbit was concerned, the paper submitted by Colombia, Ecuador, Indonesia and Kenya at the Subcommittee's twenty-third session (A/AC.105/C.2/L.147), the working non-paper submitted by the Group of 77 at the twenty-eighth session (A/AC.105/430, annex II, para. 20); and the working non-paper circulated by a number of member States of the Group of 77 at the thirtieth session (A/AC.105/484, annex II, para. 12) reflected the development of understanding between the developing countries, including the equatorial States, and other members of the Subcommittee and should be used as the basis for further discussion.

4. Any legal principles governing the utilization of the geostationary orbit should establish a rational and equitable balance between the interests of the developing countries, including the equatorial countries, and the developed countries for the benefit of all mankind, taking into account the particular needs of developing countries and the fact that the geostationary orbit was part of outer space, located in the equatorial zone of the Earth and was a limited natural resource. Since science and technology had a vital role to play in the utilization of the geostationary orbit for the benefit of all mankind, the transfer of technology should be included as one of the draft legal principles pertaining to the geostationary orbit. In view of the need for such principles in order to supplement the existing legal instrument relating to space activities, his delegation pledged its readiness to reach consensus on the matter.

5. Mr. KOPAL (Czechoslovakia), referring to the definition and delimination of outer space in the context of the present and future development of space transportation systems, said that many United Nations and other international instruments on space activities used the term "outer space" without defining it, although the wording of many provisions of those instruments made it plain that the treaty-makers were aware of the need to explain the term so that such provisions would be correctly interpreted and applied.

6. There had been no need for a definition of outer space until space activities had begun; aeronautics had been able to develop even though the 1919 Paris Convention on International Air Navigation and the 1944 Chicago Convention on International Civil Aviation did not contain such a definition. The definition of outer space and its delimitation from airspace would therefore have to be such as to satisfy the needs of space flight and prevent obstacles to the growth of outer space activities, and thus necessarily global, invariable, clear, simple and easily applicable from both the ground and outer space. Only one astronautical criterion met those requirements: the lowest perigee at which space objects were still able to continue orbiting the Earth for a prolonged period. Despite rapid progress in space technology, that criterion had remained unchanged over the years and was feasible to apply in practice. It was already implicit in provisions such as article II, paragraph 1, of the 1975 Convention on Registration of Objects Launched into Outer Space, which required registration of space objects when they were "launched into earth orbit or beyond". Notwithstanding the lack of formal agreement, that meaning had been attributed to the term "outer space" by spacefaring nations and tacitly recognized by others.

7. The definition of outer space had to be considered not only in respect of the development of space law, but also as it related to new trends in the technology of space flight, where it had practical implications for reusable space vehicles, space stations and aerospace transportation systems. The space shuttle, for example, was launched and operated as a space object, but returned to Earth as an aircraft within the meaning of the definition given in annex 7 of the Chicago Convention. That dual function was considered by some to be a major new factor in the practical utility of an agreement on a boundary between airspace and outer space. Although there were those who considered that the landing constraints of the space shuttle precluded its definition as an aircraft and believed that it could be operated safely without such a definition, thus obviating the need for delimitation between airspace and outer space, future aerospace systems, as indicated in the working paper submitted by the Russian Federation (A/AC.105/C.2/L.189), could well be capable of remaining in airspace for a relatively long period and operate in a limited way as aircraft. Such space objects, though differing from aircraft in the origin and purpose of their flight, would move in parts of space covered by two different legal regimes, one of which applied the current principles and norms of international and national aviation law.

8. The crucial point was therefore not whether the aerospace vehicle, in an ascending, descending or intermediate stage of its flight, was to be considered an aircraft or a spacecraft, but that, whenever the aerospace vehicle entered a part of space superadjacent to the territory of a State and subject to its complete and exclusive sovereignty, it would have to observe

the territorial sovereignty of that State, in an analogous fashion to seagoing vessels navigating on the high seas and in territorial waters. It should be borne in mind that future generations of aerospace vehicles with increased aerodynamic capabilities might well be capable of taking off and landing from airports and be used not only for space exploration, but also for the transportation of persons and goods between different points on the Earth and between Earth and space.

9. Mr. BOYER (France), referring to the comments by the representative of Czechoslovakia, said that, according to General Assembly resolution 222 (XXI), the Subcommittee's mandate was to study questions relative to the definition of outer space or, in other words, to consider whether such a definition was necessary, not what form it should take, a matter that would generate lengthy and inconclusive debate and was not solely of a legal nature. Moreover, the second paragraph of article I of the 1967 Outer Space Treaty would appear to favour the non-delimitation of outer space; since it called for "free access to all areas of celestial bodies", it necessarily implied that there should also be free return. The consequences of any delimitation of outer space therefore required careful consideration so that, through any appeal to territoriality, constraints would not be placed on the principle of free access to and free return from outer space. In that context, he welcomed the working paper submitted by the Russian Federation (A/AC.105/C.2/L.189) because it dealt with the problem of aerospace objects not by extrapolation from existing legal provisions, but on the basis of the facts and a consideration of the benefits such objects could bring to mankind.

10. Mr. RAO (India) said that States unanimously agreed that outer space differed from airspace in legal status and nature. Airspace was within the sovereign domain of each subjacent State, whereas outer space was the heritage of all mankind and meant for the common and peaceful use of all. Outer space was not subject to alienation or appropriation by any State or group of States. The definition and delimitation of outer space limits would promote its peaceful use and demilitarization. Moreover, the implementation of outer space law, including the provisions of the 1967 Outer Space Treaty, the 1971 Convention on International Liability for Damage Caused by Space Objects and the principles relevant to the use of nuclear power sources in outer space, depended on a clear-cut distinction between airspace and outer space.

11. Despite the practical and legal need for such a distinction, States had become involved in a political debate characteristic of the cold war era. In the situation that now existed, it was to be hoped that, in the common interests of all mankind, they would look at the problem in a new light.

12. His delegation welcomed the working paper submitted by the Russian Federation (A/AC.105/C.2/L.189), whose purpose was to break the deadlock and stimulate discussion on the question of the legal regime for aerospace objects. It stressed the need for the definition and delimitation of outer space and raised a number of pertinent questions.

13. A general question that arose was whether a space object was identical to or different from the medium of its transit or stay. If it was different, a further question was whether the space object acquired the legal status of the medium or whether the medium acquire the legal status of the object.

14. He also pointed out that the Legal Subcommittee had defined and was still defining variables relating to outer space, such as "launching State", "space objects" and some scientific terms. He therefore saw no problem in defining outer space itself, on whose legal status and nature and practical differentiation from airspace States agreed. What was required now was a new approach.

15. In his country's view, the geostationary orbit was part of, and had the same legal status as, outer space. As a member State of the International Telecommunication Union and of the Committee on the Peaceful Uses of Outer Space, India considered that there was no contradiction between the respective roles of those two bodies in dealing with the subject from their respective vantage points. Without prejudice to the role of ITU, the Subcommittee should consider only broad, non-technical questions of access to and the utilization of the geostationary orbit in the light of the existing international situation and the needs and interests of developing countries. The working non-paper submitted at the Subcommittee's last session (A/AC.105/484, annex II, para. 12) would be a good basis for discussion.

16. Mr. GALLOWAY (Observer for the International Astronautical Federation (IAF)), said that IAF was a non-governmental association of national societies, institutions and industrial companies concerned with space activities. It had been established in 1950 and now had 123 organization members in 39 countries. Its aims were to foster the development of astronautics for peaceful purposes; promote the dissemination of technical information; stimulate public interest in space flight; and encourage astronautical research. In 1960, it had created the International Institute of Space Law (IISL).

17. The IAF World Space Congress would be held in Washington D.C. from 28 August to 25 September 1992 on the theme "Discovery, exploration and cooperation". It would be a celebration of International Space Year, the 500th anniversary of Christopher Columbus's first voyage to the New World and the first 35 years of the modern space age.

18. Since its establishment, the International Institute of Space Law (IISL) had maintained close relations with the Legal Subcommittee. The President of IISL, Judge Manfred Lachs of the International Court of Justice, had been the Chairman of the Legal Subcommittee during the negotiations which had led to the adoption of the text of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

19. The work of the Legal Subcommittee, its parent Committee and the Scientific and Technical Subcommittee had made it possible to integrate space science and technology with the legal aspects of mankind's activity in outer space. As various provisions of the 1967 Outer Space Treaty had been expanded into new international agreements, space law had become an important branch of general international law.

20. IISL now had over 400 individual members from 42 countries and the proceedings of its annual Colloquium on the Law of Outer Space were published by the American Institute of Aeronautics and Astronautics. The 1992 meeting, to be held in Washington D.C., would discuss topics such as managing environmental issues, including space debris, and the legal regulation of the economic uses of outer space. The 1993 Colloquium would be held in Graz, Austria, during the forty-fourth IAF World Space Congress and the topics for discussion would include the arbitration of disputes regarding space activities and aspects of space insurance.

21. Mr. PODCHERNIAEV (Russian Federation), referring to the comments by the representative of France, said that the return to Earth of a space object did not require "free access to all areas of celestial bodies" and was not governed by article I of the 1967 Outer Space Treaty. The term "outer space" meant the space beyond the atmosphere, as exemplified by the French term "espace extra-atmosphérique".

22. Mr. RASHKOW (United States of America) said that his reaction to the comments by the representative of Czechoslovakia was similar to that of the representative of France. He also agreed with the representative of the Russian Federation that the 1967 Outer Space Treaty did not apply to the return to Earth of a space object. In his delegation's view, it would be better not to tamper with the existing legal regime for outer space, which had produced such beneficial results over the years.

23. Mr. GONZALEZ (Chile) said that the three paragraphs of article I of the 1967 Outer Space Treaty should not be interpreted separately and in isolation. Any comprehensive reading of the Treaty led to the inescapable conclusion that the definition and delimitation of outer space were necessary. He had not heard any valid legal arguments against that proposition. The debate had merely shown that there were two schools of thought: the first was based on legal arguments and considerations of principle, while the second relied on the political will to maintain the status quo.

24. He requested the representative of the United States to explain how a NASA space shuttle was characterized in legal terms.

25. Mr. RASHKOW (United States of America) said that, for the purposes of the 1967 Outer Space Treaty, a space shuttle was treated as a space object.

The meeting rose at 11.45 a.m.